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MEMORANDUM FOR: HENRY A. KISSINGER

FROM: GEORGE A. CARVER, JR.

SUBJECT: Thieu's Probable Position on
Releasing Prisoners Held by the GVN

1. How flexible Thieu would be on the question of releasing communists now in GVN custody would depend very much on the overall atmospheric tone of Thieu's settlement package conversations with U.S. officials and, hence, how cooperative or forthcoming Thieu wanted to be on the basic issues. This note assumes that the tone is cordial and Thieu, by his lights, wants to cooperate. It sketches a realistic "maximum" position which Thieu -- all other things being favorable -- would probably have little trouble in accepting but beyond which he would not be too likely to go.

2. Unfortunately, the prisoners whose release would do Thieu's image, and the GVN's, the most symbolic good at minimal real risk are probably the ones he would be least inclined to free -- e.g. Truong Dinh Dzu, Tran Ngoc Chau and the latter's communist brother. Logically, the release of such high visibility (and relatively harmless) political prisoners ought to be near the top of the agenda of any such

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discussions. Given Thieu's known strong feelings on this touchy subject, however, the most practical agenda order would be a considerably less logical one, with Dzu and Ch^u coming up near the end and only if the atmosphere still seemed propitious.

3. There are several cosmetically or symbolically useful steps Thieu could take which would improve the atmosphere (vis-a-vis the communists) before Thieu actually had to release anybody. For example, the death sentence passed in absentia on all members of the "Alliance" (which emerged briefly after Tet 1968) could be rescinded, along with similar sentences decreed for others not actually in GVN custody.

4. When we get down to concrete cases involving those currently incarcerated, Thieu would probably be willing to accept a working distinction between persons jailed for what they merely were as opposed to those jailed for specific deeds they actually did. In any kind of settlement scenario, for example, simple membership in the Communist Party or a given front group would presumably cease to be a crime per se.

5. Those convicted and jailed for actions proved through judicial process provide a stickier problem. Even here, however, meaningful distinctions could be drawn, if Thieu is willing to draw them. Sappers and terrorists apprehended while attacking military targets such as

bridges, for example, might be candidates for release. Terrorists who attacked schools, refugee camps or hospitals probably would not be (at least the first time around the track). Even with terrorists, certain distinctions could be drawn. If Thieu really wanted to be flexible, he could construe the killing of a GVN province chief as a military act, but not the killing of the latter's wife or children.

6. With Ambassador Bunker, it seems to me that the most workable rough bench mark is length of sentence, at least in the opening round. A cooperative Thieu would probably be willing to discuss the release of all persons whose "political" crimes warranted a sentence of only a year or less. He would probably also be willing to entertain the notion of a fairly blanket release of category C "An Tri" prisoners (small fry), and perhaps most category Bs (front members) not actually convicted of individual crimes. Pending final settlement, Thieu will probably be starchy on category As (party members) and perhaps less so on "in principle" acquiescence in the release -- after settlement -- of those not actually convicted of personally committing common law crimes.

END OF TEXT.